GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt A. Santha Devi D/o Appa Rao, R/o Flat No.102, BSR Residency 8th Line, Muthyalareddy Nagar, Amaravathi Road, Guntur against the proceedings, dt.06.06.2012 of the District Collector, Guntur in cancelling her ST 'Konda Kapu' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.36. Dated: 29.11.2021

Read the following: -

1. Proceedings of Collector, Guntur Dist., Rc.No.899/04/C4, Dt:06.06.2012.
2. Appeal Petition filed by A. Santha Devi D/o Appa Rao, R/o Flat No.102, BSR Residency 8th Line, Muthyalareddy Nagar, Amaravathi Road, Guntur District before M(TW), No.19/M(TW)/2013, Dated: 02.02.2013.
3. Govt. Memo No.1421/CV.2/2013, T.W.(CV.2) Deptt., dt:23.02.2013.
4. Orders of the Hon'ble High Court, AP, in WP No.22069/2012, dt: 20.07.2012.
5. From the Dist. Collector, Guntur, Rc.No.400/2013/C4, dt: 20.04.2013.
6. Govt. Memo No.1421/CV.2/2013, T.W.(CV.2) Deptt., dated: 3.02.2013, 25.06.2015, 17.11.2016, 16.04.2016, 29.04.2016, 05.12.2016, 12.01.2017 & 29.05.2017, 10.07.2017, 18.08.2017, 17.11.2020 07.07.2021 & 04.08.2021.

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ORDER:

In the Proceedings 1st read above, the District Collector, Guntur has issued orders cancelling the ST 'Konda Kapu' Community Certificate issued to Smt A.Santha Devi D/o Appa Rao, R/o Flat No. 102, BSR Residency 8th Line, Muthyalareddy Nagar, Amaravathi Road, Guntur.

2. Smt A.Santha Devi D/o Appa Rao has filed Appeal Petition before the Government against the Proceedings of the District Collector, Guntur duly submitting grounds in support of her claim of ST 'Konda Kapu' Community Certificate and prayed to set aside the proceedings of the District Collector, Guntur. After examining the said Appeal Petition, Government admitted the appeal petition and have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in Memo 3rd read above.

3. In the letter 5th read above, the District Collector, Guntur has furnished para-wise remarks along with connected records on the Appeal Petition filed by Smt A. Santha Devi D/o Appa Rao.

4. The said Appeal Petition has been posted for hearings on 09.04.2016, 14.05.2016, 24.12.2016, 24.01.2017, 17.06.2017, 05.08.2017, 16.09.2017, 28.112020, 24.07.2021, 23.08.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel in the Memos 6th read above. The appellant and her counsel have attended the last hearing i.e., on 23.08.2021 and have filed written arguments. On perusal of the Written arguments, records/ the copies of evidences/ academic record/ grounds filed by the Appellant and the proceedings of the District Collector, Guntur, dated 06.06.2012 and further the para-wise remarks submitted by the District Collector, Guntur, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of her claim of "ST Konda Kapu" community are as follows:

1. The Collector, Guntur ought to have closed the enquiry against the appellant by holding that the appellant belonging to Konda Kapu community as per the record produced by her. But the Collector erred in observing that the appellant has not belongs to Kondakapu community and the conclusion arrived by the District Level Scrutiny Committee (DLSC) headed by the Joint Collector, Guntur is based on the report submitted by the Tribal Welfare Officer, Guntur. The DLSC discussed the averments made in the report of the District Tribal Welfare Officer, Guntur and came to conclusion that the Appellant not belongs to Kondakapu community. The report prepared by the Tribal Welfare Officer is honest in the eye of law. The Tribal Welfare Officer behind the back of the Appellant, without examining the relevant factors involved in the present issue and also without examining the local elders in the community arrived a wrong conclusion that the Appellant is not belonging to Kondakapu community.

[Contd..on P.2]

2. The Collector, Guntur erred in not supplying the copy of the report prepared by the District Tribal Welfare Officer, Guntur which is the base for arriving a conclusion against the Appellant inspite of a request made to the District Collector to serve a copy of the said report but he failed to supply the copy of the report of District Tribal Welfare Officer, Guntur and cancelled the caste certificate based on the report of the Tribal Welfare Officer, Guntur which is nothing but contrary to the principles of natural justice.
3. The Appellant was brought up and grown by his grand father Sri Nancharaiah since the father of the Appellant neglected her. During her life time she followed the community customs which her grandfather followed. The Tahsildar, Chintalapudi issued proceedings by holding that Sri R.Venkaiah S/o Pitchaiah as Kondakapu(ST). Before passing an order by the Tahsildar, he collected all documentary evidence in deciding the issue of social status of Sri R.Venkaiah who is none else that the younger brother of the Appellant's grandfather Sri Nanchariah. The appellant submitted all documentary evidence in support of her caste claim during the enquiry but either the Joint Collector or the Collector, Guntur failed to look into the said documentary evidence in support of her caste claim as Kondakapu.
4. The DLSC., West Godavari on elaborate enquiry about his social status and also connected records has opined that the forefathers of Sri R.Jayaprakash Narayan S/o Venkaiah hails from Darakonda Village of VSP and they belong to Kondakapu(ST) community only, and confirmed their social status by the District Collector, West Godavari vide proceedings, dt 8.6.2000.
5. The complaint lodged against the appellant is a bogus one and with an evil motive for the reasons best known to them, the third parties filed a false complaint against the appellant after the lapse of more than 20 years and after her appointment as Assistant in LIC Department. Therefore the Collector, Guntur should have rejected the said complaint as bogus one and making successive enquiries on the social status of "RAYI" family and against the appellant is nothing but harassing the appellant in the guise of the said enquiry. In similar nature several enquiries was ordered against the members of Rayi Family where the appellant came from that family and in all the way the earlier enquiry report declared that Sri R.Jayaprakash Narayan and others belonging to Kondakapu community and whereas as per the present impugned order the collector declared that the appellant does not belong to Kondakapu community which is false and incorrect.
6. The appellant produced the entire documentary evidence along with the family tree of Sri Rayi Pitchaiah but the Collector failed to consider the said documentary evidence in a right manner and pass the present impugned order detrimental to the interest of the appellant.
7. The District Level Scrutiny Committee while relying up on the Circular Memo No.10956/CV.1/97, dt 16.2.1998, guidelines under G.O.Ms.No.371, dt: 13.04.1976, G.O.Ms.No.147 and the report of the District Tribal Welfare Officer, Guntur dt: 12.12.2011 have come to the conclusion that the appellant does not belong to Kondakapu community. None of those documents have served on the Appellant before arriving a conclusion.
8. The Appellant was not bought up within the cultural fold of Kondakapu community and the Tahsildar is not competent to issue Kondakapu Caste Certificate. The above decision arrived by the District Collector is solely based on the report of the District Tribal Welfare Officer, Guntur who failed to make necessary enquiry on the caste claim of the Appellant by giving an ample opportunity to her.
9. The Collector, Guntur failed to consider the explanation submitted by the Appellant dt: 20/21.04.2009 along with the documentary evidence and the explanation dt: 15.5.2012.
10. The observation of the DLSC that the Appellant failed to produce any caste certificates relating to her siblings is absolutely false. There is no such requirement under law to produce the caste certificate relating to her siblings since they are scattered in different places and settled in their respective fields. Therefore, asking the Appellant to produce their caste certificates is nothing but illegal and arbitrary and non submission of their caste certificate particulars, the Collector cannot throughout the claim of the Appellant.
11. The Collector, Guntur ought to have seen that the Appellant being ST community though married a non Tribal, the social status claimed by the Appellant being interlinked with the status of her grandfather when his social status as belonging to Schedule Tribe Community has been accepted and continued and denial of the same so far as this Appellant is concerned is highly unjustified and arbitrary.

[Contd..on P.3]

II. The District Collector, Guntur has furnished the following remarks on the above grounds are as follows:

1. The claim of the appellant that the then MRO, Padakakani Mandal conducted detailed enquiry and issued Konda Kapu certificate to her in the year 1989 cannot be accepted since the MRO., is not the competent authority to issue Konda Kapu Caste certificates in Non native Mandal as per G.O.Ms.No.147, S.W.Dept., dt 27.4.1977.
2. The individual cannot question the authority of the District Collector, Guntur to enquire into her caste status, since the enquiry was made basing on the request forwarded by the Divisional Manager. LIC of India, Machilipatnam in pursuance of sec.6(1) of the A.P.(SCs, STs and BCs) regulation Act 1993.
3. She claimed that she was a descendent of Rayi family and furnished genealogical table. She claimed Sri Rayi Nanchariah was her maternal grand father, Rayi Venkaiah was the younger brother of Rayi Nancharaiah and the family belongs to KONDA KAPU. In this connection, it is submitted that the individual failed to secure the presence of the persons with Rayi surname to adduce evidence on her behalf. She could not file any valid documentary evidence that she was a descendent of Rayi family except her self declaration. In the absence of any valid documentary evidence, her claim was not established.
4. It is true that the District Level Scrutiny Committee after due enquiry came to a conclusion that the individual failed to established her claim that she belongs to Konda Kapu caste. Therefore, a final show cause notice dt: 6.2.2012 was issued to her.
5. The G.Os and circulars referred by the individual are public documents and therefore the individual cannot plead ignorance about the knowledge of the said G.Os and circulars.
6. The children of Inter caste marriages where one of the parents belongs to Scheduled tribe shall be accepted by the Scheduled Tribe Community and the brought up shall also be in the fold of Tribe families. Otherwise, a child cannot be treated as belonging to the Tribe as per the instructions contained in G.O.Ms.No.371, Social Welfare (B2) Department, dt:13.4.1976. On the other hand the individual failed to produce any documentary evidence to establish that her ancestors belongs to KONDA KAPU tribe and she was brought up in the fold of Tribe families. It is also in record that her caste was entered as KAPU in her school records. Therefore, the allegations raised by her are not true.
7. The burden of producing the witnesses lies on the individual as per rule 6 of G.O.Ms.No.58, S.W.(J) Dept., dt:12.5.1997. The individual instead of furnishing the address particulars of her blood relatives and producing them before the DLSC stated that she had no terms with her siblings. In those circumstances, the allegations made by the individual is not true and the enquiry was conducted as per the guidelines issued by the Government with regard to verification of caste status of the individuals which cases are referred to the District Collector as per Sec 5(1) of the A.P(SCs, STs and BCs) Regulation of Issue of Community Certificates Act 1993.
8. The DTWO stated that in this case, there are no documentary evidences as to establish the fact that Smt. A.Santha Devi and her family were accepted by the members of Konda Kapu community and it is clear that she is not brought up within the cultural aspects of Konda Kapu Community. She failed to furnish the names of the Chief Deities whom the Konda Kapus naturally worship and not familiar with festivals and rituals of Konda Kapu community. The individual was brought up and pursued her studies in plain area and she never suffered any social stigma as a tribe.
9. The District Collector, Guntur has requested the Govt. to dismiss the appeal petition filed by Smt. A.Santha Devi D/o Appa Rao, R/o Muthyalareddy Nagar, Amaravathi Road, Guntur, District before the Govt. against the orders of the District Collector, Guntur District, dated 06.06.2012 is deserves no consideration.

III. Finally, the Appellate Authority has observed /opined that;

1. During the course of hearing that the appellant submitted her arguments as per her grounds in appeal petition and has stated that the lower authority failed to consider the relevant documents about the social status of Rayi family and she came from that family and if the same may be consider that it can be concluded that she belongs to ST community and further stated that the complaint lodged after the lapse of more than 20 years after her appointment and on that score alone, the lower authority ought to have rejected it as bogus one.

[Contd.. on P.4]

2. On verification of the documents, the grounds of appeal and Para wise remarks as well as the other documents and material available on the record, it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and she failed to produce any evidence that she belongs to ST Community and moreover, that the lower authority carefully considered all the documents produced by the appellant and came to a conclusion that the appellant does not belongs to ST community.

3. That as per the act, the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record, the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the lower authority.

4. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly the Proceeding of lower authority is hereby upheld and the appeal petition is hereby dismissed.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the proceedings dtd: 06.06.2012 of the District Collector, Guntur does not deserve any interference, hence, the same are hereby upheld duly dismissing the appeal petition filed by Smt. A.Santha Devi D/o Appa Rao, R/o Flat No.102, BSR Residency 8th Line, Muthyalareddy Nagar, Amaravathi Road, Guntur and the caste certificate issued by the then Tahsildar, Pedakakni is deemed to be cancelled.

6. The District Collector, Guntur is directed to take necessary consequential action in the matter.

7. The records containing Pages (1-431) received from the District Collector, Guntur through the reference 5th read above, are returned herewith in original to the District Collector, Guntur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector and District Magistrate, Guntur.(we)
(with original records) (BY RPAD)

Smt. A. Santha Devi D/o Appa Rao,
R/o Flat No.102, BSR Residency 8th Line,
Muthyalareddy Nagar, Amaravathi Road, Guntur District.
Phone: 9010613393.

Sri Mannava Jagannadham(Advocate)
S/o Nagabhushabam
Medikondur (Village & Mandal),
Guntur. Phone:9441827447.

Copy to:
The Senior Divisional Manager (LIC), Jeevan Prakash,
Kennedy Road, Machilipatnam, Krishna Dist. – 521001.

The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc.

// FORWARDED: BY ORDER //

SECTION OFFICER